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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

E-FILING

SHERI GARAY,)	
)	CASE NO. 3:08-cv-01059-EDL
Plaintiff,)	
)	
vs.)	NOTICE OF <i>EX PARTE</i>
)	APPLICATION AND <i>EX PARTE</i>
UNUM LIFE INSURANCE COMPANY OF)	APPLICATION TO EXTEND TIME
AMERICA, and DOES 1-10,)	TO RESPOND TO COMPLAINT;
)	PROPOSED ORDER THEREON
Defendants.)	
_____)	

TO PLAINTIFF AND HER ATTORNEYS OF RECORD:

Defendant UNUM LIFE INSURANCE COMPANY OF AMERICA (hereinafter “defendant”), submits the following *Ex Parte* Application for an Order Extending the Time for a Response to Complaint, currently due to be filed on March 3, 2008, to March 13, 2008. The attached memorandum of points and authorities and declaration demonstrate good cause for the requested extension of time to respond. This application is made for the following grounds: (1) Counsel for defendant has just received the complete claim file, and requires additional time to review the entire claim file to determine the appropriate response. (2) In response to defense counsel’s request for an extension of time to respond to the complaint, counsel for plaintiff has agreed to grant an extension of time to answer the complaint through March 13, 2008. However,

1 plaintiff's counsel has not responded to defendant's counsel's emails and telephone calls
2 requesting an extension of time to respond to the complaint, and defendant's counsel has not yet
3 determined whether a motion to dismiss would be appropriate in this matter.

4 Respectfully submitted,

5 RIMAC & MARTIN, P.C.

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7 DATED: February 29, 2008

By: /s/ ANNA M. MARTIN
ANNA M. MARTIN
Attorneys for Defendant
UNUM LIFE INSURANCE COMPANY OF
AMERICA

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14 **POINTS AND AUTHORITIES**

15 **I. INTRODUCTION**

16 The Court should grant defendant's *Ex Parte* Application for an Order Extending Time to
17 Respond to Complaint, to March 13, 2008, or later, for the following reasons: (1) Counsel for
18 defendant has just received the complete claim file, and requires additional time to review the
19 entire claim file to determine the appropriate response. (2) In response to defense counsel's
20 request for an extension of time to respond to the complaint, counsel for plaintiff has agreed to
21 grant an extension of time to answer the complaint through March 13, 2008. However,
22 plaintiff's counsel has not responded to defendant's counsel's emails and telephone calls
23 requesting an extension of time to respond to the complaint, and defendant's counsel has not yet
24 determined whether a motion to dismiss would be appropriate in this matter.

25 **II. LEGAL ARGUMENT**

26 Local Rule provides that "The Court may, in its discretion, grant an initial extension ex
27 parte upon the affidavit of counsel that a stipulation extending time cannot reasonably be
28 obtained, explaining the reasons why such a stipulation cannot be obtained and the reasons why

1 the extension is necessary. Except for one such initial extension, ex parte applications for
 2 extension of time will not ordinarily be granted.”

3 **1. Good Cause Exists For Granting This Motion**

4 Counsel for defendant has requested that plaintiff stipulate to extending time for a
 5 response to the complaint, but plaintiff’s counsel has only granted an extension of time to answer
 6 the complaint, and plaintiff’s counsel has not responded to defendant’s requests that the
 7 extension of time be to respond to the complaint. (Decl. Counsel, ¶¶ 2-7.)

8 Good cause exists for granting an extension of time to respond to the complaint because
 9 counsel for defendant has just received the entire claim file, and has thus not had the opportunity
 10 to review the claim file, and determine an appropriate response to the complaint. (Decl. Counsel,
 11 ¶ 8.) In response to defense counsel’s request for an extension of time to respond to the
 12 complaint, counsel for plaintiff has agreed to grant an extension of time to answer the complaint
 13 through March 13, 2008. However, plaintiff’s counsel has not responded to defendant’s
 14 counsel’s emails and telephone calls requesting an extension of time to respond to the complaint,
 15 and defendant’s counsel has not yet determined whether a motion to dismiss would be
 16 appropriate in this matter. (Decl. Counsel, ¶¶ 2-8.)

17 Thus, defendant respectfully requests that the Court extend the deadline to respond to the
 18 complaint to March 13, 2008 or later.

19 Respectfully submitted,

20 RIMAC & MARTIN, P.C.

21
 22 DATED: February 29, 2008

23 By: /s/ ANNA M. MARTIN
 24 ANNA M. MARTIN
 25 Attorneys for Defendant
 26 UNUM LIFE INSURANCE COMPANY OF
 27 AMERICA
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ORDER

The Court, having considered the within *ex parte* application made this day by defendant UNUM Life Insurance Company of America, and good cause appearing therefor,

IT IS ORDERED that defendant must respond to the complaint by March 13, 2008.

SO ORDERED.

DATED: 9/2/08


UNITED STATES DISTRICT COURT JUDGE